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February 26, 2024

Via Electronic Mail

Honorable Cathy McMorris Rodgers
Chair, House Energy and Commerce
Committee
U.S. House of Representatives
Washington, DC 20515

Honorable Jason Smith
Chair, House Ways and Means
Committee
U.S. House of Representatives
Washington, DC 20515

Honorable Frank Pallone, Jr.
Ranking Member, House Energy and Commerce
Committee
U.S. House of Representatives
Washington, DC 20515

Honorable Richard Neal
Ranking Member, House Ways and Means
Committee
U.S. House of Representatives
Washington, DC 20515

RE: Change Healthcare Cyberattack: Impact on LTC Pharmacies – Urgent Action Needed

Dear Chairwoman McMorris Rodgers, Chairman Smith, Ranking Member Pallone and Ranking Member Neal:

As you are no doubt aware, the recent UnitedHealth Group cyberattack involving Change Healthcare has significantly impacted pharmacies, hospitals, and other health care providers, including long-term care (LTC) pharmacies. **The Senior Care Pharmacy Coalition (SCPC), representing the LTC pharmacy sector, has already heard concerns from our members about how the cyberattack is impeding their ability to process Part D claims and deliver timely medications to the LTC patients they serve.** LTC pharmacies already are facing cash flow issues that impact their ability to stock inventory, and are concerned that OptumRx, which is a subsidiary of Change Healthcare and serves as the pharmacy benefit manager (PBM) for many Part D Plans, may deny claims for prescriptions filled while systems were down. We note that this situation is not limited to OptumRx. Due to recent market consolidation among payment processing systems, PBMs other than OptumRx have been impacted, and even PBMs like Caremark which seemingly are unaffected by the cyberattack are experiencing disruptions in claims processing.

The cyberattack began Wednesday, with the severity of the attack becoming more apparent when UnitedHealth took down its payment system. Although UnitedHealth repeatedly has promised that the system would be reopened shortly, as of this writing there is no date in sight for UnitedHealth/OptumRx to be processing claims. Although the major PBMs have offered workarounds, they are slapdash and working poorly if at all. For example, OptumRx is directing LTC pharmacies to an ineffective online portal which LTC pharmacies cannot access. OptumRx has provided a toll-free number for support, but the support staff respond that they cannot help

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LTC pharmacies to access the portal. Other PBMs apparently are using unfamiliar portals during this emergency which requires LTC pharmacies to manually enter detailed information, a process which takes as much as 30 minutes to resolve each patient issue. These workarounds are inefficient and ineffective, demonstrating that neither the PBMs nor the Part D Plans with which they contract have properly complied with the Emergency Preparedness Guidance governing the Medicare Part D program.

Despite the inability to approve or process claims for prescription drugs, LTC pharmacies nonetheless must dispense and deliver drugs to LTC patients to comply with the Medicare and Medicaid pharmacy services requirements of participation for LTC facilities, with applicable Medicare Part D regulations and manual provisions, and with their contracts with Part D Plans. Consequently, there is a substantial risk that OptumRx and other PBMs will deny coverage for prescriptions filled while its systems are not operational. This is particularly troubling since UnitedHealth's Change Healthcare— of which OptumRx is a subsidiary— is one of the largest payment networks in the country— electronically connecting 900,000 physicians, 33,000 pharmacies, and 5,500 hospitals with health insurers and providing services that help providers collect and receive reimbursement. This means the system outage can result in significant harm to pharmacies, which are unable to determine whether a prescription will be covered before dispensing to a beneficiary, and which will face increased operating costs, and likely delays in dispensing prescription medications.

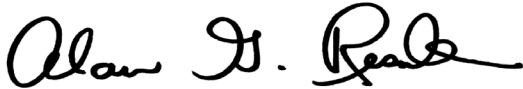
If not quickly resolved, the cyberattack will threaten timely access to essential medications for the millions of vulnerable Americans who need LTC and who rely on the prescription drugs and specialized services that LTC pharmacies provide. LTC pharmacies will face unsustainable disruptions in cash flow, inventory will shrink such that patient needs will not be met, and the damage could be persistent since, in the worst-case scenario, LTC pharmacies could be forced to close.

We respectfully urge immediate Congressional action to protect these vulnerable patients who need LTC pharmacy services. It is essential that, consistent with federal law and regulation, Medicare Part D Plan sponsors and the PBMs that administer those plans meet their obligations to ensure continuity of critical care and treatment. **Congress should demand that Part D Plans and PBMs maintain LTC pharmacy cash flow for claims submitted before the cyberattack, assure uninterrupted beneficiary access to medications and LTC pharmacy services by providing interim payment until functional systems are restored, and assure that LTC pharmacies receive timely payment for medications they dispense and services they provide while systems are not operational. In addition, Congress should demand that the Centers for Medicare and Medicaid Services immediately enforce regulations governing beneficiary access to prescription drugs and requirements that Part D Plans have and invoke emergency preparedness plans sufficient to protect patient access to essential services or be subject to appropriate sanctions.**

Thank you for considering our request. We stand ready to assist in any way possible during this emergency.

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Member Neal
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Respectfully submitted,

A handwritten signature in black ink that reads "Alan G. Rosenbloom". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Alan G. Rosenbloom
President & CEO
Senior Care Pharmacy Coalition

Cc: Honorable Brett Guthrie, Chair, House Energy and Commerce Health Subcommittee
Honorable Ann Eshoo, Ranking Member, House Energy and Commerce Health
Subcommittee
Honorable Vern Buchanan, Chair, House Ways & Means Health Subcommittee
Honorable Lloyd Doggett, Ranking Member, Ways & Means Health Subcommittee